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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11
12 SHONETTA CRAIN AND KIRA SERNA, individually and on behalf of all other
13 similar situated individuals,

14 Plaintiffs,

15 v.
16 ACCREDITED SURETY AND
17 CASUALTY COMPANY, *et al.*,

18 Defendants.

19 Case No. 3:19-CV-01265-JST

20 **STIPULATION RE: CAFA LOCAL
CONTROVERSY EXCEPTION**

21
22 STEVEN BREAUX, individually and on
23 behalf of all other similar situated
24 individuals,

25 Plaintiff,

26 v.
27 ACCREDITED SURETY AND
28 CASUALTY COMPANY, *et al.*,

29 Defendants.

30 Case No. 3:19-CV-00717-JST

1 Pursuant to the Court's April 19, 2019 Order, Dkt. 19, Plaintiffs Kira Serna, Shonetta
2 Crain, and Steven Breaux and all Defendants in both the *Crain* and *Breaux* actions stipulate as
3 follows.

4 **WHEREAS**, the Class Action Fairness Act's "local controversy" exception, 28 U.S.C. §
5 1332(d)(4)(A), is not jurisdictional and the Court is not obligated to consider its applicability *sua*
6 *sponte*, see *Visendi v. Bank of Am., N.A.*, 733 F.3d 863, 869 (9th Cir. 2013); *Kuxhausen v. BMW*
7 *Fin. Servs. NA LLC*, 707 F.3d 1136, 1140 (9th Cir. 2013);

8 **WHEREAS**, a party that seeks to remand on the basis of the "local controversy"
9 exception must establish, by a preponderance of the evidence, that its conditions are met,
10 including that at least two-thirds of the class members are California citizens, *i.e.*, United States
11 citizens domiciled in California, see *Mondragon v. Capital One Auto Fin.*, 736 F.3d 880, 884 (9th
12 Cir. 2013), *King v. Great Am. Chicken Corp.*, 903 F.3d 875, 879 (9th Cir. 2018) (stipulation that
13 class members' four-year-old last known addresses were in California insufficient because
14 residential address does not guarantee domicile, U.S. citizenship, or that individuals have not
15 subsequently moved out-of-state);

16 **WHEREAS**, the Court has explained that a party's ability to invoke the "local
17 controversy" exception may be forfeited or waived if not exercised within a reasonable time, Dkt.
18 19 at 2 (citing *Duran v. Sephora USA, Inc.*, No. 17-cv-01261-WHO, 2017 WL 3453362, at *4
19 (N.D. Cal. Aug. 11, 2017));

20 **NOW THEREFORE**, Plaintiffs and Defendants hereby jointly stipulate that they
21 knowingly waive and forfeit the right to move to, or otherwise argue in favor of, remand on the
22 basis of any exception to CAFA jurisdiction. However, such waiver is without prejudice to
23 Plaintiffs' ability to request remand to California Superior Court should the Court, *sua sponte* or
24 at the request of a non-stipulating party or intervenor or appellate court, conclude that a CAFA
25 exception requires the Court to relinquish jurisdiction.

1 Dated: April 24, 2019

Respectfully submitted,

2 By: /s/ Dean M. Harvey

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FILER'S ATTESTATION

Pursuant to General Order No. 45, § X(B), I attest under penalty of perjury that concurrence in the filing of the document has been obtained from all the signatories.

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/s/ Dean M. Harvey

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